

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Jay V. BHAVSAR, Ankitaben
Harshadkumar BHAVSAR, and
H-A-B-,

Plaintiffs.

v.

UR MENDOZA JADDOU, *in her
official capacity as* Director of U.S.
Citizenship and Immigration Services,

Defendant.

Civil No:

COMPLAINT TO COMPEL
AGENCY ACTION UNDER
28 U.S.C. § 1361 AND 5 U.S.C.
§§ 555(b), 706(1), AND FOR A
WRIT OF MANDAMUS TO
COMPEL DEFENDANTS'
ADJUDICATION OF FORM
I-130, PETITION FOR ALIEN
RELATIVE

Receipt No. IOE0915351070
IOE0915351071

COMPLAINT FOR WRIT OF MANDAMUS

To the Honorable Judges of Said Court:

Plaintiffs, Jay V. Bhavsar, Aniktaben Harshadkumar Bhavsar and H-A-B-,
through undersigned counsel, allege as follows:

I. INTRODUCTION

1. This is a civil action brought pursuant to 28 U.S.C. § 1361, 8 U.S.C. § 1329,
and 28 U.S.C. § 1331, to redress the deprivation of rights, privileges and

immunities secured to Plaintiffs to compel Defendant to perform a duty that Defendant owes to Plaintiffs.

2. This action is brought to compel Defendant and those acting under her supervision to take action on a Petition for Alien Relative, Form I-130 (“Petition”) for that Plaintiff Jay V. Bhavsar, (hereinafter “Jay”) to obtain an approved petition in order to permit his wife, Plaintiff Hiya Ankitaben Bhavsar and stepchild, Plaintiff H-A-B-, to apply to become a Lawful Permanent Resident of the United States. The visa Petitions were submitted on February 25, 2022.
3. Plaintiffs are eligible to have the Petitions adjudicated because Plaintiff Jay is a U.S. citizen and he married Plaintiff Ankitaben Harshadkumar Bhavsar on January 24, 2022. Neither of them are convicted of any disqualifying criminal offenses.
4. Plaintiffs request that this Court issue injunctive relief and a writ in the nature of mandamus compelling the Defendant to make a determination to grant or deny the Petition under 8 U.S.C. § 1154.

II. JURISDICTION

5. This Court has general federal question jurisdiction over this action under 5 U.S.C. §§ 555(b) and 706(a), 28 U.S.C. § 1331(a) and 28 U.S.C. § 1346(a)(2). Jurisdiction is also conferred by 5 U.S.C. § 704.
6. This Court also has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202 and F.R.C.P. 57 and 65.

III. VENUE

7. Venue in the Northern District of Georgia is proper pursuant to 28 U.S.C. §1391(e). Defendant is an Officer of the United States acting in her official capacity. Further, Plaintiff Jay resides in this judicial district.

IV. EXHAUSTION

8. There are no administrative remedies available for Plaintiffs to exhaust.

V. PARTIES

9. Plaintiff Jay is a U.S. citizen. He submitted an I-130 Petition for his wife, Plaintiff Anikitaben Harshadkumar Bhavsar, who is a native and citizen of India. Plaintiffs were married on January 24, 2022, in India. Plaintiff Jay also submitted an I-130 petition for his stepdaughter, Plaintiff H-A-B. Defendant UR MENDOZA JADDOU is the Director of USCIS, a

fee-for-service agency which is responsible for the administration and enforcement of the immigration laws of the United States.

VI. FACTUAL ALLEGATIONS

10. Plaintiff Jay is a U.S. citizen. (Exhibit A). He currently resides in Woodstock, Georgia. Plaintiff Jay married Plaintiff Ankitaben Harshadkumar Bhavsar on January 24, 2022, in India. (Exhibit B).
11. On or about February 25, 2022, Plaintiff filed forms I-130 for his wife and stepchild at the Potomac Service Center. (Exhibit C). Because Plaintiffs are immediate relatives under the INA, visa numbers are immediately available for Plaintiff Ankitaben Harshadkumar Bhavsar and Plaintiff H-A-B-.
12. Plaintiffs have at all times met and continue to meet the requirements necessary to be adjudicated as immediate relatives.
13. According to USCIS, a Form I-130 such as that filed in this case should be processed in 13.5 months. (Exhibit D). In the last 5 years such petitions were adjudicated in as little as 7.6 months. (Exhibit E).
14. Plaintiffs' petitions were filed on February 25, 2022 and have therefore been pending for over 19 months, which far exceeds the stated current processing time.

15. The USCIS has not issued an interview notice nor sent any request for additional information. Unfortunately, nothing has happened in this case.
16. Despite the passage of a significant amount of time, it does not appear that Defendant is moving forward on adjudicating Plaintiffs' Petitions.

COUNT 1

17. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 16 above.
18. Plaintiffs are eligible for immediate adjudication of this Petition.
19. Plaintiffs have suffered and will continue to suffer significant and irreparable harm because of Defendant's policies, procedures, acts and failures to act as described herein.
20. Defendant violated Plaintiffs' statutory right to apply for benefits that Congress has provided under the INA, depriving Plaintiffs of the opportunity to legally live as husband and wife here in the United States under the INA.

COUNT 2

21. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 16 above.
22. Plaintiffs have suffered a legal wrong or have been "adversely affected or aggrieved" by agency action. 5 U.S.C. § 702. Plaintiffs are aggrieved by

agency action, for which there is no other adequate remedy in a court.

5 U.S.C. § 704.

COUNT 3

23. Plaintiffs re-allege and incorporate by reference paragraphs 1 through 16 above.
24. Defendant owes Plaintiffs a clear and certain duty to adjudicate Plaintiffs' Petition.
25. Plaintiffs have no other adequate remedy at law.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests the Court:

1. Assume Jurisdiction over this action;
2. Issue a Writ of Mandamus compelling Defendant to immediately adjudicate the pending Petition;
3. Retain jurisdiction during the adjudication of the Petition in order to ensure compliance with the Court's orders;
4. Award Plaintiffs reasonable costs and attorney's fees under the Equal Access to Justice Act; and
5. Award such further relief as the Court deems just or appropriate.

RESPECTFULLY SUBMITTED this 15th day of December, 2023.

_____/s/_____
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CERTIFICATE OF SERVICE

This is to certify I electronically filed the foregoing **COMPLAINT FOR WRIT OF MANDAMUS** and its accompanying Exhibits with the Clerk of Court using the CM/ECF system. This system will automatically send email notification of such filing to all below Defendants who are registered with this system. In addition, in compliance with local rules, this initial Complaint and the accompanying Exhibits and summons have also been served by First Class Mail, postage pre-paid, on:

Ur Mendoza Jaddou,
Director
c/o Office of the Chief Counsel
5900 Capital Gateway Drive
Mail Stop 2120
Camp Springs, MD 20588-0009

Ryan K. Buchanan, U.S. Attorney,
Northern District of Georgia
75 Ted Turner Drive SW
Suite 600
Atlanta, Georgia 30303

Certified this this 15th day of December, 2023.

_____/s/_____
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LIST OF EXHIBITS

Exhibit A	Naturalization Certificate;
Exhibit B	Marriage Certificate;
Exhibit C	Form I-130 Receipts for spouse and child;
Exhibit D	USCIS.gov processing times printout; and
Exhibit E	USCIS.gov average historical processing times.